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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 ROBERT H. SMITH,

10 Plaintiff,

11 Case No. C17-1457-TSZ-MAT

12 v.

13 RYAN W. PHILLIPS, *et al.*,

14 Defendants.

15 ORDER DECLINING TO SERVE
16 COMPLAINT AND GRANTING
17 LEAVE TO AMEND

18 Plaintiff Robert Smith is in federal custody and is currently confined at Federal Detention
19 Center (FDC) SeaTac. He has submitted to this Court for filing a civil rights complaint under 42
20 U.S.C. § 1983. The Court, having reviewed plaintiff's complaint, hereby finds and ORDERS as
21 follows:

22 (1) Plaintiff alleges in his complaint that Snohomish County Sheriff's Deputies used
23 excessive force against him, and issued repeated threats, in effectuating his arrest in July 2016.
24 (*See* Dkt. 1-1 at 4-5.) Plaintiff also asserts that one deputy became physically aggressive while
25 questioning him at the Snohomish County Sheriff's Office South Precinct following his arrest.
26 (*Id.* at 6.) Plaintiff contends that the following individuals were either present or involved in the
27 incidents in question: Snohomish County Sheriff's Deputies Ryan W. Phillips, Robert Cracchilo,

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1 Lee Malkow, J. Seth, and Brian Emery. (Dkt. 1-1 at 7.) Plaintiff requests that the deputies
2 involved in this lawsuit be fired, and he seeks damages. (*Id.* at 8.)

3 (2) Rule 8(a) of the Federal Rules of Civil Procedure provides that in order for a
4 pleading to state a claim for relief it must contain a short and plain statement of the grounds for
5 the court's jurisdiction, a short and plain statement of the claim showing that the pleader is entitled
6 to relief, and a demand for the relief sought. The statement of the claim must be sufficient to "give
7 the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests."
8 *Conley v. Gibson*, 355 U.S. 41, 47 (1957). The factual allegations of a complaint must be "enough
9 to raise a right to relief above the speculative level." *Bell Atlantic Corp. v. Twombly*, 550 U.S.
10 544, 555 (2007). In addition, a complaint must allege facts to state a claim for relief that is
11 plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

12 In order to state a claim for relief under 42 U.S.C. § 1983, a plaintiff must show (1) that he
13 suffered a violation of rights protected by the Constitution or created by federal statute, and (2)
14 that the violation was proximately caused by a person acting under color of state or federal law.
15 See *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). To satisfy the second prong, a
16 plaintiff must allege facts showing how individually named defendants caused, or personally
17 participated in causing, the harm alleged in the complaint. See *Arnold v. IBM*, 637 F.2d 1350,
18 1355 (9th Cir. 1981).

19 (3) The Court declines to order that plaintiff's complaint be served on defendants
20 because the complaint fails to meet the pleading requirements set forth above. Specifically,
21 plaintiff fails to identify the constitutional rights that were violated by the conduct of each
22 defendant, and he fails to set forth facts demonstrating that each defendant personally participated
23 in causing the harm alleged in the complaint. Plaintiff also fails to make clear who the intended

1 defendants are as he names different individuals in different sections of his complaint. (See Dkt.
2 1-1 at 1, 2, 7.)

3 In order to proceed with this action, plaintiff must clearly identify all intended defendants
4 in both the caption of the complaint and in Part III of the complaint (Parties to this Complaint). In
5 addition, plaintiff must include each intended defendant in his Statement of Claim, he must identify
6 the constitutional right he believes was violated by each defendant, and he must set forth specific
7 facts demonstrating that each defendant personally participated in causing him harm of federal
8 constitutional dimension.

9 (4) Plaintiff may file an amended complaint curing the above noted deficiencies within
10 **thirty (30) days** of the date on which this Order is signed. The amended complaint must carry the
11 same case number as this one. If no amended complaint is timely filed, the Court will recommend
12 that this action be dismissed under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim upon
13 which relief may be granted.

14 Plaintiff is advised that an amended pleading operates as a *complete* substitute for an
15 original pleading. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.) (citing *Hal Roach*
16 *Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1990) (as amended),
17 cert. denied, 506 U.S. 915 (1992)). Thus, any amended complaint must clearly identify each
18 defendant, the constitutional claim(s) asserted against each defendant, the specific facts which
19 plaintiffs believe support each federal constitutional claim, and the specific relief requested.

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1 (5) The Clerk is directed to send plaintiff the appropriate forms so that he may file an
2 amended complaint. The Clerk is further directed to send copies of this Order to plaintiff and to
3 the Honorable Thomas S. Zilly.

4 DATED this 6th day of October, 2017.

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7 Mary Alice Theiler
8 United States Magistrate Judge

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